

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/798,496
Inventor(s) : Michael Kwiecien
Filed : March 11, 2004
Art Unit : 3724
Examiner : Ghassem Alie
Docket No. : Z-03579; 8109
Confirmation No. : 6314
Customer No. : 27752
Title : SHAVING SYSTEMS

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on January 24, 2008.

A timely Notice of Appeal was filed and received in the US Patent & Trademark Office on April 24, 2008, setting a response date of June 24, 2008 for this Brief. As such, a petition for a one month extension is included in the electronic submission accompanying this Brief.

REAL PARTY IN INTEREST

The real party in interest is The Gillette Company of Boston, Massachusetts.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 2, 8-12, 17, 23, 27, 30, and 33-46 are canceled.

Claims 1, 3-7, 13-16, 18-22, 24-26, 28-29, and 31-32 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

Amendment was filed on April 24, 2008. Since there has been no express denial of the amendment, Appellant presumes that the amendment has been accepted and entered.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is directed to a wet shaving system (page 2, line 4; FIG. 1, 8) comprising a blade member (page 2, lines 4-5, FIG. 1, 18) and a skin-engaging portion (page 2, line 10) including a shaving aid composite (page 2, line 10; FIG. 1, 22; FIG. 2, 110) comprising a shaving aid matrix (FIG. 1, 24) including a water-insoluble polymer and a shaving aid, and a plurality of exfoliating elements (FIG. 1, 26) comprising abrasive particles embedded in the shaving aid matrix (page 5, line 26). Claim 5 relates to a wet shaving system (page 2, line 9; FIG. 1, 8) comprising a blade member (page 2, line 9; FIG. 2, 18); and a skin-engaging portion (page 2, line 10) including a shaving aid composite (page 2, line 10;) comprising 1) a first section comprising a first water-insoluble polymer (page 2, line 10-11) and a plurality of exfoliating elements embedded in the first polymer, the exfoliating elements comprising abrasive particles; and 2) a second section comprising a second polymer (page 2, line 9), wherein at least one of the first section or second section further comprises a shaving aid (page 2, line 13-14). Claim 26 relates to a shaving aid composite (page 2, line 22) comprising: a shaving aid matrix including a water-insoluble polymer, a shaving aid, and a plurality of exfoliating elements comprising abrasive particles, wherein the exfoliating elements are embedded in the shaving aid matrix (page 2, line 22-24). Finally, Claim 28 is directed to a shaving aid composite comprising: a first section comprising a first polymer and a plurality of exfoliating elements (page 6, line 17; FIGS. 3A & 3B, 216) embedded in the first polymer that is water-insoluble, the exfoliating elements comprising abrasive particles (page 6, line 17); and a second section comprising a second polymer, wherein at least one of the first section or the second section further comprises a shaving aid (page 2, line 26-31).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Rejection Under §103(a) over Tseng and Wdowik

Claims 1, 3, 4-7, 13-16, 18-22, 24-26, 28-29, and 31-32 are rejected under 35 USC §103(a) as being unpatentable over Tseng et al (US Patent 595688) in view of Wdowik (US Patent 5756081).

ARGUMENTS

Claims 1, 3, 4-7, 13-16, 18-22, 24-26, 28-29, and 31-32

The Office has indicated that Tseng teaches a wet shaving system including a skin engagement portion including a shaving aid composite, a shaving aid matrix including a water-insoluble polymer and a shaving aid. Furthermore, the Office states that Tseng teaches that the portions of the shaving aid composite contain a water insoluble polymer but that it does not explicitly teach that the shaving aid matrix includes a plurality of exfoliating elements having abrasive particles. Thus, the Office looks to Wdowik as teaching a plurality of exfoliating elements which are used with a shaving aid composite which could be in a solid form. Furthermore, the Office points to Wdowik as teaching of exfoliating elements with abrasive particles. Consequently, the Office believes that it would have been obvious to a person of ordinary skill in the art to provide Tseng's shaving aid matrix with a plurality of exfoliating elements, as taught by Wdowik, in order to enhance exfoliation of the dead skin and removal of grease and oils. The Office goes on to assert that the remaining claims are taught by the combination of Tseng and Wdowik.

Appellant continues to assert that the disclosures of Tseng and Wdowik when taken together do not render the remaining claims obvious. As enunciated in previous responses, Appellant points out that Tseng fails to even teach or suggest the inclusion of abrasive particles into the shaving aids disclosed therein. Wdowik discloses the inclusion of such particles into a shaving composition but still falls short of the present invention. Wdowik does not teach or suggest that the shaving composition that includes abrasive particles should be part and parcel of the razor blade assembly that is mentioned therein. Rather, Wdowik consistently mentions that the claimed shaving compositions are "for use in the personal shaving process with a razor blade assembly." Nowhere does Wdowik or Tseng teach or suggest that abrasive particle containing compositions could be formulated to be stabilized within a solid form that is then included into a shaving razor versus being packaged with or used with a shaving razor. It is Appellant's position

that just because Wdowik discloses shaving compositions in solid form that include abrasive particles does not mean that one skilled in the art would have been motivated to marry an arguably similar composition with a shaving razor so that a user need not be bothered with the extra step of manually preparing the skin for shaving or treating the skin after shaving. This is especially the case since Wdowik teaches “solid-stick applicators” as a suitable means for employing his compositions. This implies that the shaving composition of Wdowik need merely to be contacted with the skin without wetting of the skin, which is implied by Appellant’s “wet shaving system”. Further, Wdowik focuses on the fact that “no special considerations for media delivery must be reconciled.” See col. 7, lines 28-37. This obviously indicates that Wdowik does not teach or suggest the shaving aid matrix of the present invention that allows for release of the abrasive particles from a water insoluble polymer as is claimed in the instant case.

Moreover, as Appellant’s claims 26, 28, 29, 31, and 32 relate to a shaving aid composite, Appellant still asserts that Tseng and Wdowik together would have failed to motivate a skilled artisan to arrive at the present invention. For it is Appellant’s position that the same failures that exist in the combined references relative to Appellant’s wet shaving system also show themselves relative to Appellant’s shaving composite. Although Tseng teaches the inclusion of a water-insoluble polymer in its skin-engaging portion, it does not speak to the desirability of including a abrasive particles in such a portion. Now, Wdowik teaches the inclusion of abrasive particles in its shaving compositions but it does not teach or even suggest why a skilled artisan would want to incorporate a water-insoluble polymer in the composition to serve to release such particles over time from a composite (see page 7, lines 29-30 of present specification) that is highly moldable. The increased moldability of the composite is desirable in the present invention particularly due to the adherence and inclusion of the claimed material into a shaving system. The water-insoluble polymer that is not taught or suggested by Wdowik may also be particularly useful to provide adequate mechanical strength during production and during use. Based on this lack of direction provided by Wdowik and Tseng’s failure to even mention abrasive particles, it is clear that one skilled in the art would not necessarily have been motivated to come up with Appellant’s invention. In view of these arguments, Appellant continues to assert that each of the appealed claims of the present application is not obvious in view of Tseng and Wdowik.

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SUMMARY

In view of all of the above, it is respectfully submitted that the appealed claims were improperly rejected under 35 USC §103(a). Appellant therefore requests of the Board of Patent Appeals and Interferences a full consideration of the arguments detailed above and reversal of the rejection of the appealed claims with instructions to the Office to allow them over the cited art.

Respectfully submitted,

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CLAIMS APPENDIX

1. A wet shaving system comprising:
a blade member; and
a skin-engaging portion including a shaving aid composite comprising
a shaving aid matrix including a water-insoluble polymer and a shaving aid, and
a plurality of exfoliating elements comprising abrasive particles embedded
in the shaving aid matrix.
3. The wet shaving system of claim 1, wherein the water-insoluble polymer is
selected from the group consisting of polyethylene, polypropylene, polystyrene,
butadiene-styrene copolymer, polyacetal, nylon, polycaprolactone, acrylonitrile-
butadiene-styrene copolymer, polycarbonate, polyurethane, and ethylene vinyl acetate
copolymer.
4. The wet shaving system of claim 1, wherein the shaving aid composite further
comprises a colorant.
5. A wet shaving system comprising:
a blade member; and
a skin-engaging portion including a shaving aid composite comprising
a first section comprising a first water-insoluble polymer and a plurality of
exfoliating elements embedded in the first polymer, the exfoliating elements comprising
abrasive particles; and
a second section comprising a second polymer,
wherein at least one of the first section or second section further comprises a
shaving aid.

6. The wet shaving system of claim 1 or claim 5, wherein the exfoliating elements comprise a member selected from the group consisting of fruit seeds, fruit stones, nut shells, ground or fibrous plant material, polymers, and mineral composites.

7. The wet shaving system of claim 1 or claim 5, wherein the exfoliating elements comprise a member selected from the group consisting of ground coconut shell, ground apricot seeds, ground peach seeds, ground olive seeds, ground walnut shell, ground almond shell, ground pecan shell, ground luffa, corn cob granules, ground oatmeal, polymer beads or granular polymers, Jojoba wax beads, rice bran, silica, sand, pumice sand, clay, and combinations thereof.

13. The wet shaving system of claim 1 or claim 5, wherein the shaving aid comprises polyethylene oxide.

14. The wet shaving system of claim 1 or claim 5, wherein the shaving aid comprises a member selected from the group consisting of vitamin E, aloe, baby oil, avocado oil, grape seed oil, and sweet almond oil.

15. The wet shaving system of claim 1 or claim 5, wherein the exfoliating elements comprise a colorant.

16. The wet shaving system of claim 5, wherein at least one of the first polymer or the second polymer comprises a water-insoluble polymer.

18. The wet shaving system of claim 5, wherein both the first section and the second section comprise a shaving aid.

19. The wet shaving system of claim 5, wherein the first section comprises a shaving aid.

20. The wet shaving system of claim 5, wherein the second section comprises a shaving aid.

21. The wet shaving system of claim 5, wherein the water-insoluble polymer is selected from the group consisting of polyethylene, polypropylene, polystyrene, butadiene-styrene copolymer, polyacetal, acrylonitrile-butadiene-styrene copolymer, and ethylene vinyl acetate copolymer.

22. The wet shaving system of claim 5, wherein the first section is on top of the second section.

24. The wet shaving system of claim 5, wherein the first and second sections are different colors.

25. The wet shaving system of claim 5, wherein at least one of the first section or second section further comprises a colorant.

26. A shaving aid composite comprising:
a shaving aid matrix including
a water-insoluble polymer,
a shaving aid, and
a plurality of exfoliating elements comprising abrasive particles,
wherein the exfoliating elements are embedded in the shaving aid matrix.

28. A shaving aid composite comprising:
a first section comprising a first polymer and a plurality of exfoliating elements embedded in the first polymer that is water-insoluble, the exfoliating elements comprising abrasive particles; and
a second section comprising a second polymer,

wherein at least one of the first section or the second section further comprises a shaving aid.

29. The shaving aid composite of claim 28, wherein the second polymer comprises a water-insoluble polymer.

31. The shaving aid composite of claim 26, wherein the shaving aid and the exfoliating elements are disposed in a single layer.

32. The shaving aid composite of claim 26, wherein the shaving aid is disposed in a first portion of the water-insoluble polymer, and wherein the exfoliating elements are disposed in a second portion of the water-insoluble polymer.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None